

## APPEAL NO. 010385

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 25, 2001. The hearing officer held that the respondent (claimant) was not entitled to supplemental income benefits (SIBs) for the second quarter, but was entitled to the third quarter; the difference was in his evaluation of the good faith search for employment in his application of the administrative rule to the facts.

The appellant (carrier) has appealed the finding of the third quarter entitlement, setting out what it believes to be a more reasonable interpretation of the facts. The carrier also asserts that there was no cooperation with the Texas Rehabilitation Commission (TRC) during this period. The claimant responds that she clearly cooperated with the TRC during the qualifying period for the third quarter and that the decision is otherwise affirmable.

### DECISION

We affirm the hearing officer's decision and order.

We do not agree that the hearing officer erred in finding that the claimant was entitled to SIBs for the third quarter. On the matter of cooperation with the TRC, the stipulated qualifying period for the third quarter ran from July 4 through October 2, 2000. It was undisputed that she went to the TRC in mid-August 2000. When and how the original referral was made to the TRC is irrelevant to the third quarter, when she actually made the recommended contact.

The hearing officer's determination that the claimant made a good faith search for employment is not so against the great weight and preponderance of the evidence as to be manifestly unfair or unjust. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record contains evidence that would lend itself to different inferences. Garza v. Commercial Insurance Company of

Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). We affirm the decision and order.

---

Susan M. Kelley  
Appeals Judge

CONCUR:

---

Philip F. O'Neill  
Appeals Judge

---

Robert W. Potts  
Appeals Judge